

JSC

ROUTING AND RECORD SHEET				
SUBJECT: (Optional) Computer Fraud Legislation: Followup Congressional Briefings				
FROM <div style="border: 1px solid black; display: inline-block; width: 150px; height: 1.2em; vertical-align: middle;"></div> Legislation Division Office of Legislative Liaison		EXTENSION	NO. OLL 84-3278	25X1 25X1
			DATE 23 August 1984	
TO: (Officer designation, room number, and building)	DATE		OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
	RECEIVED	FORWARDED		
1. Executive Assistant O/DDCI				<p>For your information, attached is an MFR on our continuing efforts to amend Rep. Hughes' computer fraud bill so as to protect Agency equities.</p> <div style="border: 1px solid black; width: 150px; height: 20px; margin: 10px auto;"></div> <div style="border: 1px solid black; width: 250px; height: 40px; margin: 10px auto;"></div>
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OLL 84-3278
23 August 1984

MEMORANDUM FOR THE RECORD

SUBJECT: Computer Fraud Legislation: Followup Congressional Briefings

REFERENCE: Memorandum to Acting DCI from OLL and OGC,
Subject: Computer Fraud Legislation, 31 July 1984,
(OGC 84-51657)

1. This memorandum summarizes meetings and discussions held by the undersigned and [] on 3 August with Congressional Staff to seek their assistance in protecting CIA and intelligence community equities with respect to a computer fraud bill recently passed by the House (the "Hughes bill").

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2. The first meeting was held with Ms. Deborah Owens, General Counsel to the Senate Judiciary Committee. Ms. Owens was contacted after a recommendation was made in the referenced memo that the DCI should express his concern to Senator Thurmond, Chairman of the Senate Judiciary Committee, which is the committee in the Senate most involved with computer fraud legislation. We explained that very sensitive operations overseas could fall within the wide scope of the Hughes bill. We also explained that limiting the bill to domestic computer fraud would not solve our problem because increasing instability abroad may force us to access foreign targets from the U.S. We suggested that our concerns would be alleviated by slightly changing the Hughes bill to require as an element of the offense that an individual access a computer "without authority" and then to define "authority" in legislative history to include law enforcement or intelligence activities. We also expressed concern about a separate provision in the Hughes bill criminalizing the manufacture, possession or use of fraudulent credit cards since the Agency sometimes must produce or use such credit cards to protect the identity of its officers overseas. Ms. Owens indicated that she would be willing to assist us in amending the bills, but that it would have to be done on the Senate floor because the Hughes bill had already been placed on the unanimous consent calendar and could thus not be referred to the Senate Judiciary Committee without the unanimous consent of the Senate. She also stated that any

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legislative history would have to be created through floor statements since there would be no conference report. Finally, it was agreed that the the credit card portion of the Hughes bill could be fixed by making reference in the body of the bill to the provision in the False Identity Act of 1982 that specifically exempts intelligence or law enforcement activities. Ms. Owens was optimistic that the Hughes bill could be fixed provided the House Judiciary Committee staff would be willing to accommodate Agency concerns. She strongly advised us to discuss the matter with the House Judiciary Staff.

3. The second meeting on computer fraud legislation was held with Jim Dykstra, SSCI designee for Senator Cohen, and Peter Sullivan, Minority Staff Director for the SSCI. Mr. Dykstra was briefed because of Senator Cohen's interest in computer fraud legislation and Mr. Sullivan was briefed because of his position as Minority Staff Director. In this meeting, [redacted] IAD/DO, accompanied by [redacted] OSO/DS&T, provided Messrs. Dykstra and Sullivan with a brief description of [redacted]

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[redacted] After we explained the impact of the Hughes bill on CIA and NSA operations, Mr. Dykstra stated that Senator Cohen would be supportive of Agency efforts to amend the Hughes bill. We indicated that the primary effort in this regard would be made through the Senate Judiciary Committee, but that any help Senator Cohen could provide would be appreciated. Mr. Sullivan also indicated that our concerns were legitimate and that our proposed fix could be made on the Senate floor without attracting much attention. He stated that the Democratic minority would not oppose our amendment.

4. Our last meeting was held with Ed O'Connell, Assistant Counsel to the Subcommittee on Crime of the House Judiciary Committee and Gregory Hayden, Counsel to the Subcommittee on Crime. After we explained to Mr. O'Connell the provisions in the Hughes bill that could impact on intelligence activities and our proposed fix, Mr. O'Connell stated that he would be willing to accommodate CIA concerns but that he needed more time to consider our specific proposal. A few days later, Mr. O'Connell called and indicated that he would be willing to insert into the Hughes bill an intelligence and law enforcement exception similar to that which currently exists in the False Identification Act of 1982. Mr. O'Connell indicated that this provision would cover both the fraudulent credit card and computer fraud sections of the bill. [redacted]

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[redacted] but I promised that the Agency would give his proposal serious consideration.

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5. In our meetings with both Mr. O'Connell and Ms. Owens, they raised the subject of why the Agency had not attempted to amend the Hughes bill earlier. We explained that several months ago it did not appear likely that the Hughes bill would be enacted in this session of Congress. Mr. O'Connell accepted our explanation and stated that we were not alone in assuming that the legislation would not move during this session of Congress. We did not mention that at the time the Hughes bill was being considered by the House Judiciary Committee we had been in touch with Mike O'Neil and Gary Chase and they had advised us that it would be preferable for CIA to attempt to amend the bill in the Senate since raising the matter with the House Judiciary Committee would be premature and could create a political controversy over CIA computer collection operations.

6. In summary, all the congressional staff members we met with agreed to help the Agency modify the Hughes bill so that it would not impact on Agency or NSA operations. The only matter remaining to be worked is the precise nature of the amendment to the Hughes bill.

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OLL:LEG:DMP:sm (1 August 1984)